IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 160 of 2007(R)

PETITIONER:

RAMESHAN KARIYIL, OPERATOR GRADE II,
CLOAK NO. 1581, PLATE WORKSHOP, TELK ANGAMALY,
ERNAKULAM DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA
SRI.P.N.ANOOP

RESPONDENTS:

---

1. THE STATE OF KERALA, REPRESENTED BY THE PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY, DEPARTMENT FOR SC/ST.DEVELOPMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. THE TRANSFORMERS AND ELECTRICAL KERALA LIMITED (TELK), REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR, ANGAMALY, ERNAKULAM DISTRICT.

4. THE CHAIRMAN AND MANAGING DIRECTOR, TELK, ANGAMALY.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE
SMT.MARIAM MATHAI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 160 of 2007

Dated this the 22nd day of January, 2007

JUDGMENT

The petitioner is working as Operator Grade II in the service of the third respondent. He belongs to a scheduled caste community. He is a diploma holder in Engineering. Respondent No.3 invited applications for the appointment of Foreman Trainees from among the employees who had acquired diploma in engineering. A ratio of 1:1 is maintained between external and internal candidates who apply for the post of Foreman Trainees. As far as external candidates are concerned, rules relating to direct recruitment will be followed. In the case of internal candidates, seniority is one of the criteria. Counsel appearing for respondent No.3 submits that as far as the service of the candidates is concerned, the post of Foreman Trainee is a promotion post. Counsel for the petitioner submits that since external candidates are also permitted to apply for the post against 50% vacancies, the members of the service who belong to the communities which are entitled for reservation against direct recruitment vacancies shall also be given the benefit of reservation for appointment to the post of Foreman Trainees against the 50% quota reserved for internal

candidates. It is contended that the third respondent is following the rules made applicable to the government employees and that it is a public sector undertaking under the control of the Government of Kerala. On the strength of the above contentions, the petitioner has sought for a writ of certiorari to quash Ext.P3 Government letter dated 23.9.1988 addressed to the third respondent. The petitioner has sought for a direction to the respondents to follow the rules of communal reservation to appointments of internal candidates to the post of Foreman trainees.

2. Learned counsel for respondents 3 and 4 submits that the petitioner is not correct in saying that the service rules applicable to government servants have been adopted in its entirety by the third respondent. The third respondent has framed its own rules to govern the service conditions of its employees. It is further submitted that there is no provision that permits reservation in the matter of promotions or appointments of internal candidates to higher categories and that reservation is confined to direct recruitment of external candidates from open market.

3. Counsel for the petitioner is not in a position to bring to my notice any rule which insist communal reservation to be followed among internal candidates who are the members of the service

working in the third respondent Company. No order having the force of law has been brought to my notice by the petitioner in support of his claim. The general principle of law is that unless reservation is guaranteed in the matter of promotion or appointment by selection from among members of a service, the normal rule of seniority and suitability or seniority-cum-merit or merit cum seniority shall govern the situation.

3. I find no merit in the writ petition. No reliefs can be granted to the petitioner based on the grounds urged in the writ petition. Therefore, WPC is dismissed.

K.K.DENESAN, JUDGE

css/